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NASA Procedural Requirements

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Subject: Reduction in Force

Responsible Office: Office of Human Capital Management

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Chapter 3. Reduction-in-Force (RIF) in the Career Senior Executive Service

3.1 Definitions

3.1.1 Reduction-in-Force (RIF). The elimination or modification of a position due to a reorganization, lack of funds or curtailment of work, or due to any other factor. See 5 CFR 359.601(b)(2).

3.1.2 Post-Probationary Career Appointee. A career individual in the SES whose appointment was based on conversion or approval by OPM of his/her executive qualifications and who, as of the effective date of the RIF, has completed or was not required to serve a probationary period under 5 CFR 359, Subpart B.

3.1.3 Probationary Career Appointee. A career individual in the SES whose appointment was based on conversion or approval by OPM of his/her executive qualifications but who, as of the effective date of the RIF, has not completed the 1-year probationary period required under 5 CFR 359, Subpart B.

3.1.4 Competitive Area. For the purposes of RIF in the SES, competitive areas are established for employees permanently assigned to NASA Headquarters and its component facilities and each NASA Center and its component facilities (regardless of duty location). For example, employees assigned to Headquarters, Johnson Space Center, and Glenn Research Center are in three separate competitive areas. In each competitive area, post-probationary and probationary career appointees compete for job retention.

3.1.5 Service Computation Date (SCD). A composite date, determined in the same manner for SES as for General Schedule employees (see 5 CFR 351.503), representing an appointee's total creditable civilian and uniformed service for retention standing in RIF competition.

3.1.6 Performance Rating. An official SES performance rating as reviewed by the Performance Review Board or Senior Executive Committee and approved by the Administrator or a designee, as appropriate. For SES recently transferred from another Federal agency, the current final rating given by the former agency will be used. These are final ratings under 5 CFR Part 430, Subpart C.

3.1.7 Executive Position Managers (EPMs). Officials-in-Charge of Headquarters Offices and Center Directors who have been designated to manage SES positions within their organizational jurisdiction.

3.2 Procedures

3.2.1 Pre-Reduction-in-Force Actions

3.2.1.1 The EPM will propose personnel actions resulting from the elimination or modification of a position due to a reorganization, lack of funds or curtailment of work, or any other appropriate factor. The EPM will make every effort to avoid RIF by reassignment of appointees in surplus positions to vacant SES positions within the immediate organization. In the absence of available vacancies, consideration will be given to placement in positions occupied by limited-term appointees and reemployed annuitants, since such individuals serve at the will of the appointing officer and do not compete in RIF. (However, the availability of such encumbered positions will not prevent the Agency from requesting placement assistance from OPM under 3.2.2.5.) When placement in a vacant SES position

is not possible, the EPM must request placement assistance.

3.2.1.2 Requests for placement assistance will be forwarded through the management chain to the Chairperson, Executive Resources Board (ERB). Such proposals must include the following:

- a. A detailed discussion of the circumstances leading to the potential RIF situation, including consideration of reassignment to a position occupied by a limited-term appointee or a reemployed annuitant.
- b. A discussion of the steps taken to avoid the potential RIF situation.
- c. Certification that SES vacancies for which employees in surplus positions are qualified neither exist nor can be established within existing resources.
- d. Recommendations, if any, regarding appropriate placements in other NASA organizations.

3.2.1.3 The Chairperson, ERB, will identify vacant SES positions outside the organization having the surplus position(s). Affected qualified employees will be referred to the appropriate EPMs for selection consideration. EPM responses will be considered, and placement recommendations will be made to the Administrator. Employees in surplus positions who are not placed will be identified for RIF and will compete for retention and placement as described below.

3.2.2 Implementation of Reduction-in-Force (RIF). Career appointees who occupy surplus positions and who have not been identified for placement by reassignment into SES positions in accordance with paragraph 3.2.1 will be subject to a formal RIF, conducted on the basis of retention competition. The Chairperson, ERB, will provide staff support for the implementation of the RIF process and will direct the preparation of retention registers.

3.2.2.1 Retention Registers. Career appointees who occupy surplus positions are entitled to compete for job retention. A retention register will be compiled of the incumbents of all SES positions within the competitive area. Career appointees, including the incumbents of the surplus positions, will be listed on the retention register in accordance with the retention groups and subgroups described below, based on their standing on the RIF effective date. Veterans preference does not apply.

3.2.2.2 Retention Standing. Career appointees on the retention register are listed by groups and subgroups, with probationary status and performance given primary consideration. Within each subgroup, appointees are listed in descending order of SCDs. Recipients of the Presidential Rank of Distinguished Executive will be placed at the top of the appropriate subgroup for a period of 4 years following the date the White House approves the award. Recipients of the Presidential Rank of Meritorious Executive will be placed at the top of the appropriate subgroup for a period of 2 years following White House approval of the award. All Rank recipients entitled to placement at the top of a subgroup will be listed in descending order of SCDs. Appointees will be assigned to retention subgroups based on an average of their three most recent performance ratings (Outstanding-5; Highly Successful-4; Fully Successful-3; Minimally Satisfactory-2; Unsatisfactory-1). For SES recently transferred from another Federal agency, the current final rating given by the former agency will be used, averaged with the previous two final ratings, if any. Only final SES ratings will be used; therefore, the subgroup for an appointee with only two ratings will be based on an average of the two ratings. The subgroup for an appointee with only one rating will be determined by that rating. SES career appointees will be placed in subgroups in the following order:

- a. Group 1. Post-probationary career appointees with all performance ratings Fully Successful or higher, listed in each subgroup in descending order of SCDs.

(Note: Eligible Presidential Rank recipients will be placed at the top of each subgroup in descending order of SCDs as described above.)

Subgroup 1A. Appointees with an average rating of 5.0.

Subgroup 1B. Appointees with an average rating of 4.67.

Subgroup 1C. Appointees with an average rating of 4.5.

Subgroup 1D. Appointees with an average rating of 4.33.

Subgroup 1E. Appointees with an average rating of 4.0.

Subgroup 1F. Appointees with an average rating of 3.67.

Subgroup 1G. Appointees with an average rating of 3.5.

Subgroup 1H. Appointees with an average rating of 3.33.

Subgroup 1I. Appointees with an average rating of 3.0.

- b. Group 2. Probationary career appointees with all performance ratings Fully Successful or higher, listed in each subgroup in descending order of SCDs.

Subgroup 2A. Appointees with an average rating of 5.0.

Subgroup 2B. Appointees with an average rating of 4.67.

Subgroup 2C. Appointees with an average rating of 4.5.

Subgroup 2D. Appointees with an average rating of 4.33.

Subgroup 2E. Appointees with an average rating of 4.0.

Subgroup 2F. Appointees with an average rating of 3.67.

Subgroup 2G. Appointees with an average rating of 3.5.

Subgroup 2H. Appointees with an average rating of 3.33.

Subgroup 2I. Appointees with an average rating of 3.0.

c. Group 3. Appointees with at least one rating below Fully Successful, listed in each subgroup in descending order of average rating and SCDs.

Subgroup 3A. Post-probationary appointees.

Subgroup 3B. Probationary appointees.

In case of a tie in retention standing, NASA SCD will be used.

3.2.2.3 Displacement and Consequence of Competition

a. If there are appointees on the retention register occupying positions for which the surplus appointee meets the established qualification requirements who are in a lower retention group, or in the same retention group but in a lower retention subgroup based on an average rating at least 1 point lower, the appointee of the surplus position will be offered reassignment to the position of the appointee with the lowest retention standing. The appointee who is displaced may, in turn, displace anyone on the retention register with lower standing as described above. If there are no appointees on the retention register in such positions who have lower retention standing, there is no displacement.

b. Appointees in surplus positions and displaced employees are given consideration for exercise of any assignment right, offers of reinstatement where eligible to a vacant General Schedule position, and where eligible, certification to OPM for placement assistance as described in paragraph 3.2.2.5. The Chairperson, ERB, will ensure that no displacement will be effected without review of the technical qualifications of the surplus appointees by the gaining EPM.

3.2.2.4 Assignment Rights. Although consideration for placement into vacant SES positions occurs as part of the pre-RIF activity, SES career appointees who can displace other appointees through the formal RIF process instead may be offered vacant SES positions within the Agency for which they meet the technical qualifications, at any point in the RIF process.

3.2.2.4.1 If there are fewer vacancies than appointees with assignment rights, the Chairperson, ERB, will recommend to the Administrator the placements to be made, giving priority to post-probationary executives over those still serving a probationary period.

3.2.2.4.2 Appointees who fail to accept a directed reassignment may be removed from the Federal service under adverse action procedures.

3.2.2.5 NASA Certification to OPM and OPM Placement Effort

a. When the Agency is unable to place a post-probationary appointee occupying a surplus position or a post-probationary displaced appointee in a vacant SES position for which he or she is qualified, the Chairperson, ERB, must certify in writing to OPM that no such position is available.

b. OPM has 45 days from receipt of the Agency certification to attempt placement of an identified post-probationary career appointee in any agency. These career appointees remain on NASA rolls during this period. If an appointee declines a reasonable offer of placement (i.e., a career SES appointment in any agency), OPM placement efforts will cease and the appointee may be removed from the SES at the end of the NASA notice period described in 3.2.3.3. Should a vacancy occur for which the appointee is qualified, NASA has continuing placement responsibility during the OPM assistance period.

3.2.2.6 Guaranteed Placement Outside the SES

3.2.2.6.1. If the appointee is not placed in an SES position after the above process has been completed, eligible appointees will be considered for placement outside the SES in accordance with 5 CFR Part 359, Subpart G.

3.2.2.6.2 Appointees who fail to accept a directed reassignment may be removed from the Federal service under

adverse action procedures.

3.2.3 Notice to Post-Probationary Appointee

3.2.3.1 Reassignment Notice. Offers of reassignment to other SES positions in the same geographic area will be made at least 15 days prior to the effective date. Offers of reassignment to other SES positions in a different geographic area will be made at least 60 days prior to the effective date.

3.2.3.2 First SES Removal Notice. An appointee identified for RIF, who cannot be placed in another SES position within the Agency, will be given a written notice of removal from the SES at least 45 days before the date of removal and no later than the date of NASA certification to OPM (see paragraph 3.2.2.5) requesting 45-day placement assistance. At a minimum, the notice will specify the following:

- a. The action to be taken and its proposed effective date.
- b. The nature of the competition, including the appointee's competitive area and standing on the retention register.
- c. The place where the appointee may inspect the regulations and records pertinent to the action.
- d. Placement rights within NASA and through OPM.
- e. The appointee's appeal rights, including the time limit for appeal and the location of the Merit Systems Protection Board (MSPB) office to which an appeal should be sent.
- f. The name and telephone number of the individual who is available to provide counseling concerning the appointee's rights.

3.2.3.3 Second SES Removal Notice. An appointee who received the notice described in paragraph 3.2.3.2 will be given a second written notice at least 1 day before removal from the SES. At a minimum, this notice will state the following:

- a. The basis for the removal (e.g., expiration of the 45-day OPM placement period (5 U.S.C. 3595(b)(5)) or declination of a reasonable offer of a position in another agency (5 U.S.C. 3595(b)(4)), including position offered and date declined).
- b. The effective date of the removal.
- c. Placement rights outside the SES and, when applicable, the appointee's eligibility for discontinued service retirement in lieu of placement.
- d. Reminder of the appointee's appeal rights.

3.2.4 Notice to Probationary Appointee

3.2.4.1 Reassignment Notice. Offers of reassignment to other SES positions in the same geographic area will be made at least 15 days prior to the effective date. Offers of reassignment to other SES positions in a different geographic area will be made at least 60 days prior to the effective date.

3.2.4.2 Removal Notice. A probationary appointee identified for RIF and who cannot be placed in another SES position in NASA will be notified in writing prior to the effective date of the action. At a minimum, the notice will specify the following:

- a. Whether the appointee has placement rights to a position outside the SES and if so, the position to which the appointee will be assigned.
- b. Effective date of the action.
- c. The appointee's appeal rights, including the time limit for appeal and the location of the MSPB office to which an appeal should be sent.
- d. The name and telephone number of the individual who is available to provide counseling concerning the appointee's rights.

3.3 Appeal Rights to Merit Systems Protection Board (MSPB)

A career appointee may appeal to the MSPB as to whether the RIF complied with competitive procedures as required by 5 CFR 359.405(a) and 5 CFR 359.602(a).

3.4 Records

All records pertaining to an SES RIF will be kept by NASA for at least 2 years following the effective date of the separation or placement action or until appeals are decided, whichever is later.

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